

UNITED STATES BANKRUPTCY COURT
WESTERN DIVISION
FILED
JAN 10 2014

JED G. WEINTRAUB
CLERK OF COURT
WESTERN DISTRICT OF TENNESSEE

IN RE:

DANIEL F. BACANER and
LISA T. BACANER,

CASE NUMBER 09-26292 JDL
CHAPTER 11

Debtor(s) in Possession.

MOTION TO SELL PROPERTY OF THE DEBTOR PURSUANT TO 11 U.S.C. §363

Comes now, Daniel F. Bacaner (the “Debtor” and together with Lisa T. Bacaner, the “Debtors”) and submits this Motion to Sell Property of the Debtor Pursuant to 11 U.S.C. § 363. In support of said motion, Debtor would show unto the court as follows:

JURISDICTION

1. This Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. §§ 1107, 1108, and other applicable sections of the United States Bankruptcy Code. The instant matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(N). Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

BACKGROUND FACTS

2. On June 11, 2009 (the “Petition Date”), Debtors filed a voluntary petition for relief under Chapter 11 the Bankruptcy Code.

3. Debtors continue to operate their business as a debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case.

4. Debtor is the record owner of certain real property generally located at 4508 Helene Road, Memphis, Shelby County, Tennessee (the "Property").

RELIEF REQUESTED

5. Debtor desires to sell the Property, outside the normal course of business, free and clear of all claims of creditors under a proposed agreement for a gross sales price of \$10,000.00. The sale contemplated herein shall result in the Property being sold to purchaser as a good-faith purchaser.

6. Debtor has received assurances from Wells Fargo Bank, N.A., successor by merger to Wachovia Bank, National Association, successor by merger to SouthTrust Bank ("Wells Fargo"), the holder of first priority lien on the Property, that the consideration to be paid by the purchaser equals to the fair market value of the Property, that outstanding taxes will be paid in full and that, Wells Fargo Bank, N.A supports the proposed sale, and is willing to waive any deficiency remaining after the sale of the Property on Wells Fargo's loan to Debtor secured by the Property, and that if the proposed sale is not consummated, Wells Fargo Bank, N.A, accepts the surrender of the Property with no liability or deficiency to Debtor.

7. Although the terms of the sale will not result in a net gain to the Debtor, it would relieve the Debtor of financial liability associated with the Property.

8. Sale of the Property pursuant to the Sale Agreement is the most effective means to maximize the return to the Debtor's estate and his creditors. The proposed sale provides for the best interests of the Debtor, its creditors, and other parties in interest.

9. Pursuant to Section 363(f) of the Bankruptcy Code, the Debtor seeks authority to sell the Property free and clear of all liens, claims, interests and encumbrances (collectively, the "Encumbrances"), with such Encumbrances to attach to the proceeds of sale.

10. The Debtor proposes to give notice of this Motion by sending the Motion and the Notice of Hearing on the Motion by first-class mail, deposited as soon as practicable after the filing to: (a) all attorneys and other parties who have entered an appearance in this case; and (b) all secured creditors, applicable taxing authorities, (c) the United States Trustee, and (d) the twenty (20) largest unsecured creditors. The Debtor shall file a certificate of service with the Court showing that they have complied with this notice procedure. To ensure that appropriate due process has been given to creditors, the Debtor requests that the Court find, direct and approve that Notice to creditors and interested parties satisfies the requirements for the purpose of providing Notice of the Sale.

WHEREFORE, ABOVE PREMISES CONSIDERED, Debtor respectfully requests that the Court approve the proposed sale of the Property free and clear of all liens, claims, and encumbrances or other claims of interest with the same being transferred to proceeds of sale and for such other and further relief to which Debtor is entitled as this Court may deem just and proper.

THIS, the 7th day of January 2014

Respectfully Submitted,



Daniel F. Bacaner
Lisa T. Bacaner
160 S. Broadway #103
Englewood, FL 34223
(901) 336-5385 - Telephone

Debtors in Possession

Certificate of Service:

I, Daniel F. Bacaner, state that I have caused to be served a copy of this pleading by first class mailing to the following interested parties on this 7th day of January 7, 2014.

Don M. Lucas II

Wells Fargo

171 17th St.

Bldg. 100, 8th Fl.

GO128-086

Atlanta, GA 30363

R. Spencer Clift

Erno Lindner

165 Madison Avenue Suite 2000

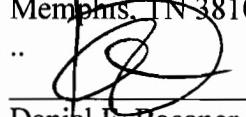
Memphis, TN 38103

U.S. Trustee

200 Jefferson Ave. #400

Memphis, TN 38103

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Daniel F. Bacaner